

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF CONTEL CELLULAR OF KENTUCKY B, |) | |
| INC. FOR ISSUANCE OF A CERTIFICATE OF PUBLIC |) | |
| CONVENIENCE AND NECESSITY TO CONSTRUCT AN |) | CASE NO. |
| ADDITIONAL CELL FACILITY IN KENTUCKY RURAL |) | 95-306 |
| SERVICE AREA NO. 2 WHICH INCLUDES UNION, WEBSTER, |) | |
| HOPKINS, CRITTENDEN, LIVINGSTON, CALDWELL, LYON, |) | |
| AND TRIGG COUNTIES IN KENTUCKY (THE MARION CELL |) | |
| FACILITY) |) | |

O R D E R

On July 19, 1995, Contel Cellular of Kentucky B, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 2 ("RSA No. 2"). RSA No. 2 includes Caldwell, Crittenden, Hopkins, Livingston, Lyon, Trigg, Union, and Webster counties. Contel Cellular has requested authorization to construct a cell site in Crittenden County. Contel Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 2 in Case No. 92-463.¹

The proposed cell site consists of a 285-foot or less self-supporting antenna tower to be located off of Kentucky Highway 506

¹ In the Matter of Reorganization of Contel Cellular of Louisville, Inc., Central Kentucky Cellular Telephone Company, Louisville Cellular Telephone Company, Bluegrass Cellular Telephone Company, Contel Cellular of Louisville II, Inc., Contel Cellular of Lexington, Inc., Cumberland Cellular Telephone Company, Inc., Contel Cellular of Kentucky, Inc., and Contel Cellular of Kentucky B, Inc.

near Marion, Crittenden County, Kentucky ("the Marion cell site"). The coordinates for the Marion cell site are North Latitude 37° 19' 11.8" by West Longitude 88° 04' 35".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Marion cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Marion cell site's construction is exempt from local zoning ordinances; however, Contel Cellular notified the Crittenden County Judge/Executive of the pending construction. Contel Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Marion cell site. The FAA approval has been granted while the KAZC application is still pending.

Contel Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Marion cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Contel Cellular's application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Contel Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Marion cell site in RSA No. 2 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Marion cell site.
2. Contel Cellular shall file a copy of the final decision regarding the pending KAZC application for this cell site construction within 10 days of receiving this decision.
3. Contel Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility

service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 29th day of August, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director